

# CHAPTER 3290. FAMILY CHILD DAY CARE HOMES

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## Authority

The provisions of this Chapter 3290 issued under Articles IX and X of the Public Welfare Code (62 P. S. § § 901—922 and 1001—1087), unless otherwise noted.

### Source

The provisions of this Chapter 3290 adopted April 3, 1992, effective April 4, 1992, 22 Pa.B. 1651, unless otherwise noted.

### Cross References

This section cited in 4 Pa. Code § 7a.1 (relating to definitions); 4 Pa. Code § 7a.11 (relating to definitions); 34 Pa. Code § 403.22 (relating to health care facilities); 55 Pa. Code § 168.2 (relating to definitions); 55 Pa. Code § 3041.13 (relating to parent choice); 55 Pa. Code § 3041.16 (relating to subsidy limitations); 55 Pa. Code § 3680.1 (relating to applicability); and 55 Pa. Code § 3800.3 (relating to exemptions).

## GENERAL PROVISIONS

### § 3290.1. Introduction.

This chapter is promulgated to facilitate the safe and healthful care of a child in family child day care and to support families by providing care that promotes the emotional, cognitive, communicative, perceptual-motor, physical and social development of the child.

### § 3290.2. Purpose.

The purpose of this chapter is to provide standards to aid in protecting the health, safety and rights of children and to reduce the risks to children in family child day care homes. This chapter identifies the minimum level of compliance necessary to obtain the Department's certificate of registration.

### § 3290.3. Applicability.

(a) This chapter applies to facilities in which out-of-home care is provided, at any one time, for part of a 24-hour day to four, five or six children who are not related to the operator and who are 15 years of age or younger. This chapter applies to private or public, profit or nonprofit facilities.

(b) This chapter does not apply to the following:

- (1) Care provided by relatives.
- (2) Care furnished in places of worship during religious services.

(c) In addition to the requirements in this chapter, the family child day care home shall be in compliance with applicable provisions of Article X(c) of the act (62 P. S. § § 1070—1080).

#### § 3290.4. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*ACIP*—The Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, United States Department of Health and Human Services.

*Act*—The Public Welfare Code (62 P. S. § § 101—1411).

*Age level*—The grouping category appropriate for the child's age.

(i) *Infant*—A child from birth to 1 year of age.

(ii) *Young toddler*—A child from 1 to 2 years of age.

(iii) *Older toddler*—A child from 2 to 3 years of age.

(iv) *Preschool child*—A child from 3 years of age to the date the child enters kindergarten in a public or private school system.

(v) *Young school-age child*—A child who attends kindergarten to the date the child enters the 4th grade of a public or private school system.

(vi) *Older school-age child*—A child who attends the 4th grade of a public or private school system through 15 years of age.

*Applicant*—A legal entity who makes a written request to operate a registered family child day care home.

*Appeal*—A written, signed and dated statement requesting reconsideration or modification of a Departmental decision that negatively affects the certificate of registration of the facility. An appeal is made by the facility operator or by the facility's legal entity.

*CPS*—Child Protective Services.

*CPSL*—*Child Protective Services Law*—Title 23 of the *Pennsylvania Consolidated Statutes* Chapter 63 (relating to the Child Protective Services Law).

*CRNP*—Certified Registered Nurse Practitioner.

*Casual contact*—The ordinary, routine and age-appropriate association of children, parents and facility persons in the course of daily assembly in a facility.

*Certification of registration*—A document issued by the Department to a legal entity permitting the legal entity to operate a specific type of facility at a specific location for a specific period of time not to exceed 2 years from the date of issue, according to applicable Departmental regulations. A certificate of registration approves the operation of a facility subject to Article X(c) of the act (62 P. S. § § 1070—1080).

*Child*—A person 15 years of age or younger.

*Child abuse*—Serious physical or mental injury which is not explained by the available medical history as being accidental; sexual abuse or sexual exploitation; or serious physical neglect of a child if the injury, abuse or neglect of a child has been caused by the acts or omissions of the child's parent, by a person responsible for the child's welfare, by an individual residing in the same home as the child or by a paramour of a child's parent. A child will not be deemed to be physically or mentally abused for the sole reason that the child is in good faith being furnished treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner thereof or is not provided specified medical treatment in the practice of religious beliefs or solely on the grounds of environmental factors which are beyond the control of the person responsible for the child's welfare, such as inadequate housing, furnishings, income, clothing and medical care.

*Child care experience*—Care for a child in lieu of care by the parent or guardian for part of a 24-hour day. The term includes care of foster children in a court-supervised arrangement. The term does not include care of related children who reside with an individual. The term does not include supervised onsite training in the case of a student who is fulfilling the requirements of a secondary or postsecondary child care training or educational curriculum.

*Child with special needs*—A child who has one or more of the following:

- (i) A disability or developmental delay identified on an IEP, an IFSP or a service agreement.
- (ii) A written behavioral plan that has been determined by a licensed physician, licensed psychologist or certified behavior analyst.
- (iii) A chronic health condition diagnosed by a licensed physician, physician's assistant or CRNP that requires health and related services of a type or amount beyond that required by children generally.

*Communicable disease*—An illness due to an infectious agent or its toxic products which is transmitted directly or indirectly by the infected agent to a susceptible host. Communicable diseases are specified in 28 Pa. Code Chapter 27 (relating to communicable and noncommunicable diseases).

*Denial*—The written refusal of the Department to issue a certificate of registration to a new applicant.

*Department*—The Department of Public Welfare of the Commonwealth.

*Facility*—A family child day care home.

*Facility person*—A staff person, a substitute staff person or a volunteer.

*Family child day care home*—A home other than the child’s own home, operated for profit or not-for-profit, in which child day care is provided at any one time to four, five or six children unrelated to the operator.

*IEP*—Individualized education program as defined in 22 Pa. Code § § 14.101 and 14.131—14.133 (relating to definitions; and IEP).

*IFSP*—Individualized family service plan as defined in § § 4226.5 and 4226.71—4226.77 (relating to definitions; and IFSPs).

*Inspection*—A review of facility operation to determine compliance with applicable laws or regulations, conducted by an agent of the Department.

*Inspection summary*—A document prepared by an agent of the Department describing each regulatory noncompliance item confirmed as a result of a facility inspection.

*Legal entity*—A person, corporation or partnership that is legally responsible for the administration of the facility.

*Night care*—Care for a child between the hours of 7 p.m. and 7 a.m.

*Nonrenewal*—The written refusal of the Department to issue a certificate of registration to a legal entity previously granted a certificate of registration at the same location.

*Operator*—The term is synonymous with the term “caregiver” in section 1070 of the act (62 P. S. § 1070).

*Parent*—The biological or adoptive mother or father or the legal guardian of the child.

*Potentially hazardous food*—A food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish or other ingredients capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.

*Random sample*—The total of the registered family child day care homes annually selected for inspection by the Department.

*Regional office of child day care*—One of four Departmental offices responsible for certified child day care facilities located in counties assigned to the regional office. A certificate of registration is issued by a regional office to the legal entity responsible for the operation of a family child day care home.

*Registration law*—The act of December 5, 1980 (P. L. 1112, No. 193) (62 P. S. § § 1070—1080).

*Relative*—A child, stepchild, grandchild or foster child.

*Revocation*—The Department's written retraction of a certificate of registration which occurs prior to expiration of the facility's certificate of registration.

*Service agreement*—A service agreement as defined in 22 Pa. Code § § 15.2 and 15.7 (relating to definitions; and service agreement).

*Space*—An indoor or outdoor area used for child care.

*Staff person*—A person included in the regulatory ratio who is responsible for child care activities.

*Supervise*—To be present in the child care facility with the children or with the facility person under supervision. Supervision is critical oversight in which the supervisor can see, hear, direct and assess the activity of the supervisee.

*Volunteer*—A person 16 years of age or older who is not included in the regulatory ratio. A volunteer assists in implementing daily program activities.

#### **Authority**

The provisions of this § 3290.4 amended under Articles IX and X of the Public Welfare Code (62 P. S. § § 901—922 and 1001—1087).

#### **Source**

The provisions of this § 3290.4 amended May 23, 2008, effective September 22, 2008, 38 Pa.B. 2437. Immediately preceding text appears at serial pages (204655) to (204658).

#### **Cross References**

This section cited in 55 Pa. Code § 3290.122 (relating to admission interview).

## **GENERAL REQUIREMENTS**

### **§ 3290.11. Application for and issuance of a certificate of registration.**

(a) An individual desiring information about the registration law or about regulations for the operation of a family child day care home shall request the documents from the appropriate regional office of the Department.

(b) A legal entity desiring to apply for a certificate of registration shall request application documents from the appropriate regional office of the Department.

(c) A legal entity or a representative of the legal entity shall participate in an orientation training provided by the Department within 12 months prior to issuance of a certificate of

registration. The orientation does not count toward the biennial minimum of 12 clock hours of child care training required in § 3290.31(f) (relating to age and training).

(d) Prior to providing child day care at any one time to more than three children unrelated to the operator, the legal entity shall apply for and will be issued a certificate of registration.

(e) A legal entity seeking to operate a facility shall apply to the appropriate regional office on a form approved by the Department. The legal entity shall be required to submit information specified by the registration law and this chapter.

(f) The legal entity applying for a certificate of registration shall certify, in writing, compliance with the registration law and this chapter.

(g) Following review of the application and related documents, the Department will approve or deny the issuance of a certificate of registration.

(h) A certificate of registration will be issued for a period not to exceed 24 months following date of issue.

(1) A certificate of registration is issued to a specific legal entity at a specific location. A certificate of registration is not transferrable.

(2) A certificate of registration is void without notice if there is a change in the legal entity or the location of the facility.

(3) If a facility is to be operated at a new location or by a new legal entity, the legal entity shall advise the appropriate regional office at least 30 days in advance of the change.

(i) The facility is subject to inspections as follows:

(1) For purposes of the random sample on an announced or unannounced basis.

(2) At the request of an operator on an announced or unannounced basis.

(3) In response to a complaint on an unannounced basis.

(j) If a certificate of registration lapses, the legal entity shall file an original application and the supplemental information required by the Department.

(k) Prior to expiration of a current certificate of registration, the legal entity will receive notice from the Department regarding renewal of the certificate.

(l) A legal entity desiring to renew a certificate of registration shall submit a correct, completed application and other required materials to the appropriate regional office of the Department prior to the expiration of the current certificate of registration.

(m) Regarding child abuse and criminal history clearances related to the CPSL, the following apply:

(1) At initial application for a certificate of registration, the legal entity shall submit clearances for the legal entity and for each individual 18 years of age and older who resides in the facility at least 30 days in a calendar year.

(2) At renewal, the legal entity shall submit clearances for each individual 18 years of age or older who resides in the facility at least 30 days in a calendar year if any of the following apply:

(i) The current registration certificate was issued prior to May 28, 2007.

(ii) The individual attained 18 years of age following the date of the previous application for a registration certificate.

(iii) The individual moved into the facility following the date of the previous application for a registration certificate.

(3) New clearances for the legal entity and for each individual 18 years of age or older who resides in the facility at least 30 days in a calendar year will be required by the Department if an application for renewal is received following expiration of the current certificate of registration.

(n) An operator whose facility's certificate of registration is current as of September 22, 2008, will not be required to certify compliance with this chapter until renewal of the certificate of registration or until the Department inspects in response to an alleged regulatory violation, whichever occurs first.

#### **Authority**

The provisions of this § 3290.11 amended under Articles IX and X of the Public Welfare Code (62 P. S. § § 901—922 and 1001—1087).

#### **Source**

The provisions of this § 3290.11 amended May 23, 2008, effective September 22, 2008, 38 Pa.B. 2437. Immediately preceding text appears at serial pages (204658) and (288013).

#### **Notes of Decisions**

##### *General*

Daycare provider appealed a Department decision to revoke her permit. Because the provider was allowed to operate during the pendency of her appeal, the appeal was dismissed as moot when the permit in question expired at the end of its 2-year term. *Britt v. Department of Public Welfare*, 787 A.2d 457 (Pa. Cmwlth. 2001).

#### **§ 3290.12. Negative sanctions.**

(a) If the Department's agent records noncompliance with the registration law or this chapter during an inspection, the operator shall submit a written plan to correct the

noncompliance. The operator shall establish in writing, with the Department's agent, an acceptable period of time in which the noncompliance will be corrected.

(b) The Department may deny issuance of a certificate of registration to an operator for one or more of the following reasons:

- (1) Failure to certify compliance with the registration law or this chapter.
- (2) Fraud or deceit in the self-certification process.
- (3) Failure to meet the requirements of the CPSL.

(c) The Department may refuse to renew or may revoke a certificate of registration to an operator for one or more of the following reasons:

- (1) Noncompliance with the registration law or this chapter.
  - (2) Fraud or deceit in the self-certification process.
  - (3) Lending, borrowing or using the certificate of another operator, or in any way knowingly aiding the improper issuance of a certificate of registration.
  - (4) Gross incompetence, negligence or misconduct in operating the facility.
  - (5) Mistreating or abusing children cared for in the facility.
  - (6) Failure to submit to the Department an acceptable plan to correct noncompliance.
  - (7) Failure to comply with the acceptable plan to correct noncompliance.
- (d) The Department will review and may deny, refuse to renew or revoke a certificate of registration to an operator if one or more of the following applies to an operator, staff person, volunteer or another person present at the facility while children are in care.
- (1) The person is convicted of a felony.
  - (2) The person is convicted of a crime involving child abuse, child neglect, moral corruptness or physical violence.
  - (3) The person demonstrates a mental illness which creates a risk to children that is determined and documented by a physician or CRNP.
  - (4) The person evidences drug or alcohol addiction within the most recent 12-month period that is determined and documented by a physician or CRNP.
  - (5) The person is named in accordance with the CPSL as a perpetrator in an indicated or founded report of child abuse.

### **§ 3290.13. Appeals.**

(a) Appeals related to the Department's registration decisions shall be made under 2 Pa.C.S. § § 501—508 and 701—704 (relating to Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(b) Appeals related to the Department's approval or licensure shall be made by filing a petition within 30 days after service of notice of the action.

(c) A facility's operator may appeal a Departmental decision relating to the status of the facility's certificate of registration.

(d) The Department will include information relative to appeal procedures when notifying operators of one or more of the following decisions:

- (1) Denial of a certificate of registration.
- (2) Failure to renew a certificate of registration.
- (3) Revocation of a certificate of registration.
- (4) Limiting or precluding admission of persons into the facility.

(e) Subsection (b) supersedes the appeal period of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

#### **Source**

The provisions of this § 3290.13 amended October 3, 2008, effective November 3, 2008, 38 Pa.B. 5435. Immediately preceding text appears at serial page (335125).

#### **Notes of Decisions**

##### *General*

Daycare provider appealed a Department decision to revoke her permit. Because the provider was allowed to operate during the pendency of her appeal, the appeal was dismissed as moot when the permit in question expired at the end of its 2-year term. *Britt v. Department of Public Welfare*, 787 A.2d 457 (Pa. Cmwlth. 2001).

#### **§ 3290.14. Building codes.**

A certificate of registration will not be granted by the Department until the legal entity provides a certificate of occupancy as proof of compliance with the applicable requirements in 34 Pa. Code § 403.23 (relating to child day care facilities).

#### **Authority**

The provisions of this § 3290.14 amended under Articles IX and X of the Public Welfare Code (62 P. S. § § 901—922 and 1001—1087).

#### **Source**

The provisions of this § 3290.14 amended May 23, 2008, effective September 22, 2008, 38 Pa.B. 2437. Immediately preceding text appears at serial page (302121).

#### **Cross References**

This section cited in 55 Pa. Code § 3290.211 (relating to approval by the Department of Labor and Industry).

#### **§ 3290.15. Service to a child with special needs.**

- (a) The operator shall make reasonable accommodation to include a child with special needs in accordance with applicable Federal and State laws.
- (b) The operator shall permit an adult individual who provides specialized services to a child with special needs to provide those services on the facility premises as specified in the child's IEP, IFSP or written behavioral plan.
- (c) The operator shall make staff persons and parents aware of community resources for the family of a child who may have special needs. The Department will provide to the operator information regarding community resources.

#### **Authority**

The provisions of this § 3290.15 amended under Articles IX and X of the Public Welfare Code (62 P. S. § 901—922 and 1001—1087).

#### **Source**

The provisions of this § 3290.15 amended May 23, 2008, effective September 22, 2008, 38 Pa.B. 2437. Immediately preceding text appears at serial page (302121).

#### **Cross References**

This section cited in 55 Pa. Code § 3290.122 (relating to admission interview).

#### **§ 3290.16. Child abuse reporting.**

- (a) An operator or facility person who has reason to believe that a child enrolled in the facility has been abused is required to report suspected child abuse to ChildLine as mandated by the CPSL.
- (b) A staff person may be designated by the operator as the person responsible to notify ChildLine of suspected child abuse. The operator or designated staff person with this responsibility shall immediately notify ChildLine at 1 (800) 932-0313.
- (c) Within 48 hours, a written report regarding the suspected child abuse shall be submitted by the operator or designated staff person to the CPS unit which has responsibility for investigating the report.

**§ 3290.17. Reporting injury, death or fire.**

(a) The operator or the operator's designee shall immediately notify a child's parent and shall notify the appropriate regional office of the Department within 24 hours if one or more of the following occurs:

(1) Inpatient hospitalization or emergency room treatment of a child receiving care at the facility.

(2) A death of a child receiving care at the facility.

(3) A facility fire that requires the services of a fire department.

(b) The operator shall mail or deliver a written report to the appropriate regional office of the Department within 72 hours after the occurrence of an event listed in subsection (a).

(c) The report shall include the following information:

(1) The name, address and telephone number of the facility.

(2) The name, address and birth date of the child.

(3) The name and address of the child's parent or guardian.

(4) A description of the incident, including the date, time and location of the incident and the equipment involved.

(5) The name and telephone number of local authorities notified.

(6) The nature of the treatment.

(7) The name and address of the place treatment was received.

(8) The required follow-up.

(d) The staff person who prepared the report shall sign and date it.

(e) Copies of reports shall be kept in a file at the facility.

**Cross References**

This section cited in 55 Pa. Code § 3290.17a (relating to injury, death or fire—statement of policy); and 55 Pa. Code § 3290.132 (relating to emergency medical care).

**§ 3290.17a. Reporting injury, death or fire—statement of policy.**

The facility operator shall make reports to a child's parent and to the Department in accordance with § 3290.17 (relating to reporting injury, death or fire) if one or more of the following occurs:

- (1) A child receiving care in the facility is lost or missing from the facility.
- (2) A child in the care of the facility is left behind on a facility excursion.
- (3) A child receiving care in the facility is left unattended in the facility when the facility is closed.

#### **Source**

The provisions of this § 3290.17a adopted February 20, 2009, effective April 22, 2009, 39 Pa.B. 1011.

### **§ 3290.18. General health and safety.**

Conditions at the facility may not pose a threat to the health or safety of the children.

### **§ 3290.18a. [Reserved].**

#### **Source**

The provisions of this § 3290.18a adopted December 26, 2003, effective December 27, 2003, 33 Pa.B. 6428; reserved May 23, 2008, effective September 22, 2008, 38 Pa.B. 2469. Immediately preceding text appears at serial pages (302122) to (302123).

### **§ 3290.19. Communication with parents.**

The operator shall establish oral or written communication in the language or mode of communication which is understandable to the parent.

### **§ 3290.20. Parent access and participation.**

A parent of a child in care shall be permitted free access, without prior notice, throughout the child care space whenever children are in care, unless a court of competent jurisdiction has limited the parental right of access to the child and a copy of the order is on file at the facility. Opportunities shall be provided for parents to participate in the facility's program.

### **§ 3290.21. Departmental access.**

- (a) A staff person shall provide to agents of the Department immediate access to the facility and, upon request, to the children and the files and records.
- (b) An inspection will be conducted during normal business hours except when there is reasonable cause to believe that inspections at other times are necessary to detect violations of applicable laws and regulations.

(c) An agent of the Department will inspect for compliance with this chapter in all areas of the facility premises that are accessible to children.

#### **Authority**

The provisions of this § 3290.21 amended under Articles IX and X of the Public Welfare Code (62 P. S. § § 901—922 and 1001—1087).

#### **Source**

The provisions of this § 3290.21 amended May 23, 2008, effective September 22, 2008, 38 Pa.B. 2437. Immediately preceding text appears at serial page (302123).

#### **§ 3290.21a. [Reserved].**

#### **Source**

The provisions of this § 3290.21a adopted July 26, 1996, effective July 27, 1996, 26 Pa.B. 3552; reserved May 23, 2008, effective September 22, 2008, 38 Pa.B. 2469. Immediately preceding text appears at serial page (302123).

#### **§ 3290.22. Availability of certificate of registration and applicable regulations.**

(a) The facility's current certificate of registration and a copy of the applicable regulations under which the facility is certified shall be posted in a conspicuous location used by parents, with instructions for contacting the appropriate regional day care office posted at the same location.

(b) The operator shall provide the parent of each child enrolled in the facility with a copy of this chapter.

(c) The operator shall post a copy of each inspection summary issued by the Department next to the facility's certificate of registration in a conspicuous location used by parents. The inspection summary must remain posted until an agent of the Department verifies that each noncompliance item noted on the inspection summary has been corrected.

#### **Authority**

The provisions of this § 3290.22 amended under Articles IX and X of the Public Welfare Code (62 P. S. § § 901—922 and 1001—1087).

#### **Source**

The provisions of this § 3290.22 amended May 23, 2008, effective September 22, 2008, 38 Pa.B. 2437. Immediately preceding text appears at serial pages (302123) to (302124).

**§ 3290.22a. [Reserved].****Source**

The provisions of this § 3290.22a adopted July 26, 1996, effective July 27, 1996, 26 Pa.B. 3554; reserved May 23, 2008, effective September 22, 2008, 38 Pa.B. 2469. Immediately preceding text appears at serial page (302124).

**§ 3290.23. Compliance with nondiscrimination requirements.**

(a) An operator shall comply with the statutes listed in subsection (b). An operator or staff person may not discriminate on the basis of age, race, sex, religious creed, ethnic origin, handicap, National origin or economic status and shall observe applicable Federal and State statutes and regulations.

(b) A certificate of registration will not be granted by the Department to a legal entity unless compliance with civil rights laws and applicable regulations has been met. The applicable laws as identified on the certificate of registration application are:

- (1) The Pennsylvania Human Relations Act (43 P. S. § § 951—962.2).
- (2) The Age Discrimination Act of 1975 (42 U.S.C.A. § § 6101—6107).
- (3) Title VI of the Civil Rights Act of 1964 (42 U.S.C.A. § § 2000d—2000d-4a).
- (4) Title VII of the Civil Rights Act of 1964 (42 U.S.C.A. § § 2000e—2000e-5).
- (5) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C.A. § 794).
- (6) The Americans with Disabilities Act of 1990 (42 U.S.C.A. § § 12101—12514).

(c) The appropriate forms to establish compliance shall be included with the application for certificate of registration.

**§ 3290.24. Emergency plan.**

(a) The facility shall have an emergency plan that provides for:

(1) Shelter of children during an emergency including shelter in place at the facility and shelter at locations away from the facility premises.

(2) Evacuation of children from the facility building and evacuation of children to a location away from the facility premises. The evacuation routes and evacuation plans to exit the building may be the same as those required by § 3290.94(f) and (g) (relating to fire drills).

(3) A method for facility persons to contact parents as soon as reasonably possible when an emergency situation arises.

- (4) A method for facility persons to inform parents that the emergency has ended and to provide instruction as to how parents can safely be reunited with their children.
- (b) The operator shall review the emergency plan at least annually and update the plan as needed. Each review and update of the emergency plan shall be documented in writing and kept on file at the facility.
- (c) Each facility person shall receive training regarding the emergency plan at the time of initial employment, on an annual basis and at the time of each plan update. The date of each training and the name of each facility person who received the training shall be documented in writing and kept on file at the facility.
- (d) The emergency plan shall be posted in the facility at a conspicuous location.
- (e) The operator shall provide to the parent of each enrolled child a letter explaining the emergency procedures described in subsection (a). The operator shall also provide to the parent of each enrolled child a letter explaining any subsequent update to the plan.
- (f) The operator shall send a copy of the emergency plan and subsequent plan updates to the county emergency management agency.

#### **Authority**

The provisions of this § 3290.24 adopted under Articles IX and X of the Public Welfare Code (62 P. S. § § 901—922 and 1001—1087).

#### **Source**

The provisions of this § 3290.24 adopted May 23, 2008, effective September 22, 2008, 38 Pa.B. 2437.

### **FACILITY PERSONS**

#### **§ 3290.31. Age and training.**

- (a) The operator shall have the following qualifications:
- (1) Be 18 years of age or older.
  - (2) Have a high school diploma or a general educational development certificate and submit proof to the appropriate regional office of the Department at the time of registration renewal.
- (b) Staff persons shall be 18 years of age or older.
- (c) A volunteer shall be 16 years of age or older. A volunteer shall be directly supervised at all times by a staff person.

(d) An individual 16 years of age or older who is enrolled in an approved training curriculum may be used as a staff person, if the following guidelines are met:

(1) The curriculum is conducted by an institution approved by the Department of Education and accredited by an accrediting agency recognized by the United States Department of Education or the Council on Post-secondary accreditation and acceptable to the Department of Education.

(2) The curriculum includes acceptable training topics referenced in subsection (f)(2).

(3) The curriculum includes a minimum total of 600 clock hours, distributed as follows:

(i) A minimum of 400 clock hours of classroom training.

(ii) A minimum of 200 clock hours of supervised training in a child day care facility.

(4) A representative of the training institution certifies in writing that the individual has completed the required classroom training and is currently enrolled in the curriculum.

(5) The written certification required in paragraph (4) shall be retained in the staff file at the facility.

(e) Child care professional credentials are equivalent to the following staff qualifications:

(1) A Child Development Associate (CDA) credential or a Certified Childcare Professional (CCP) credential is equivalent to 9 credit hours from an accredited college or university in early childhood education or child development and 1 year of experience with children.

(2) A Pennsylvania school-age professional credential is equivalent to 9 credit hours from an accredited college or university in elementary education or child development and 1 year experience with children.

(f) A staff person shall obtain a biennial minimum of 12 clock hours of child care training.

(1) Acceptable training is conducted in one or more of the following settings:

(i) By a secondary or postsecondary institution approved by the Department of Education and accredited by an accrediting agency recognized by the United States Department of Education or the Council on Postsecondary Accreditation and acceptable to the Department of Education.

(ii) By an entity that is licensed or certified professionally competent in the training topic.

(iii) In conferences or workshops.

(iv) With audio-visual materials recognized by child care professionals.

- (2) Acceptable training topics include the following:
- (i) Child or staff health.
  - (ii) Child development, early childhood education and special education.
  - (iii) Supervision, discipline and guidance of children.
  - (iv) Nutrition for children.
  - (v) Child care program development.
  - (vi) Child care staff person or volunteer professional development.
- (3) Other training topics may be submitted for the Department's review and approval.
- (4) Depending on the provisions of the appropriate regulation, training may be required for certain staff. The following constitutes competence in training areas as follows:
- (i) *First-aid training*. Competence is completion of training by a professional in the field of first-aid. First-aid training shall be renewed on or before expiration of certification or every 3 years, as applicable.
  - (ii) *Lifeguard training*. Competence is completion of lifeguard training, including first-aid training and cardiopulmonary resuscitation (CPR) for child and infant.
  - (iii) *Water safety instruction*. Competence is completion of basic instruction in water safety from a certified lifeguard.
- (g) Completion of training shall be documented by the signature and title of a representative of the training entity and shall include the date training was completed. Documentation shall be retained in the facility person's file.

#### **Authority**

The provisions of this § 3290.31 amended under Articles IX and X of the Public Welfare Code (62 P. S. § § 901—922 and 1001—1087).

#### **Source**

The provisions of this § 3290.31 amended May 23, 2008, effective September 22, 2008, 38 Pa.B. 2437. Immediately preceding text appears at serial pages (302124) to (302126) and (312283).

#### **Cross References**

This section cited in 55 Pa. Code § 3290.115 (relating to water activity).

**§ 3290.31a. [Reserved].**

### Source

The provisions of this § 3290.31a adopted November 3, 1995, effective November 4, 1995, 25 Pa.B. 4708; reserved May 23, 2008, effective September 22, 2008, 38 Pa.B. 2469. Immediately preceding text appears at serial page (312283).

### § 3290.32. Suitability of persons in the facility.

- (a) The operator shall comply with the CPSL and Chapter 3490 (relating to protective services).
- (b) Questions relating to the requirements of the CPSL shall be directed to the appropriate regional child day care office.
- (c) The operator may not allow an individual to enter the facility if the operator knows that the individual has been convicted or is awaiting trial on charges involving a crime of child abuse, child neglect, physical violence or moral corruptness.
- (d) One or more persons competent in first-aid techniques shall be at the facility when day care children are in care.

## STAFF-CHILD RATIO

### § 3290.51. Maximum number of children.

The number of children in care may not exceed six children at any one time who are unrelated to the operator.

### Cross References

This section cited in 55 Pa. Code § 3290.113 (relating to supervision of children).

### § 3290.52. Ratio requirements.

The operator may provide care to no more than five related and unrelated infants and toddlers at any one time. No more than two related and unrelated infants may receive care at any one time. The following numbers of infants and toddlers are permitted in a family day care home:

- (1) If no infants are in care, five toddlers are permitted.
- (2) If one infant is in care, four toddlers are permitted.
- (3) If two infants are in care, three toddlers are permitted.

### Cross References

This section cited in 55 Pa. Code § 3290.113 (relating to supervision of children).

## **PHYSICAL SITE**

### **§ 3290.61. Unsafe areas in outdoor space.**

If unsafe areas or conditions are in or near an outdoor play space, fencing or natural barriers are required to restrict children from those unsafe areas or conditions.

### **§ 3290.62. Outside walkways.**

Outside walkways shall be free from ice, snow, leaves, equipment and other hazards.

### **§ 3290.63. Protective electrical covers.**

Protective receptacle covers shall be placed in electrical outlets accessible to children 5 years of age or younger.

### **§ 3290.64. Toxics.**

(a) Cleaning materials and other toxic materials shall be stored in an original labeled container or in a container that specifies the content. Toxics shall be kept in a locked area or in an area inaccessible to children. Toxics shall be stored away from food, food preparation areas and child care spaces.

(b) Cleaning materials and other toxic materials shall be used in a way that does not contaminate play surfaces, food, food preparation areas and does not constitute a hazard to the children.

(c) Toxic plants are not permitted in a child care space.

(d) Arts and crafts materials shall be nontoxic.

## **Cross References**

This section cited in 55 Pa. Code § 3290.78 (relating to toilet area); and 55 Pa. Code § 3290.115 (relating to water activity).

### **§ 3290.65. Sanitation.**

(a) Trash shall be removed from the facility at least once per day.

(b) Trash shall be removed from the facility premises at least once per week.

(c) Evidence of infestation of insects or rodents may not be in the facility.

(d) Trash that has been contaminated by human secretions or excrement shall be contained in closed, plastic-lined receptacles.

**§ 3290.66. Smoking.**

(a) Cigarettes, pipes or cigars may not be smoked in indoor or outdoor child care space or food preparation areas when children are in care in the space or when food is being prepared.

(b) Ashes and cigarette or cigar butts are prohibited in indoor or outdoor child care space or food preparation areas.

(c) At the time of a child's enrollment, the operator shall inform the parent of the smoking policy at the facility.

**§ 3290.67. Water.**

(a) A safe and adequate supply of drinking water shall be made available to children of all ages throughout the day.

(b) Drinking water shall be provided to children who are out-of-doors for a period exceeding 1 hour.

**§ 3290.68. Indoor temperature.**

(a) The indoor temperature must be at least 65° F.

(b) If the indoor temperature exceeds 82° F in a child care space, a means of mechanical air circulation must be operating.

**Authority**

The provisions of this § 3290.68 amended under Articles IX and X of the Public Welfare Code (62 P. S. § § 901—922 and 1001—1087).

**Source**

The provisions of this § 3290.68 amended May 23, 2008, effective September 22, 2008, 38 Pa.B. 2437. Immediately preceding text appears at serial page (315877).

**§ 3290.69. Hot water pipes and other sources of heat.**

Hot water pipes and other sources of heat exceeding 110° F that are accessible to children shall be equipped with protective guards or shall be insulated to prevent direct contact.

**§ 3290.70. Ventilation.**

- (a) Natural or mechanical ventilation shall be provided in child care spaces.
- (b) Windows or doors used for ventilation shall be screened when open.
- (c) Screens shall be in good repair.
- (d) Windows or doors above the ground floor that open directly to the outdoors and are accessible to children shall be constructed, modified or adapted to limit the openings to 6 or fewer inches.

### **§ 3290.71. Telephone.**

A facility shall have an operable telephone. A facility that has an unpublished telephone number shall make the number available to the parent, the release persons of the children in care, an agency that oversees or funds the facility and the appropriate regional office of the Department. The parent shall be notified that the number is unpublished.

### **§ 3290.72. Emergency telephone numbers.**

Telephone numbers of the nearest hospital, police department, fire department, ambulance and poison control center shall be posted by each telephone in the facility.

### **§ 3290.73. First-aid kit.**

- (a) A facility must have a first-aid kit.
- (b) A first-aid kit shall be kept in a place inaccessible to children.
- (c) A first-aid kit must contain the following: soap, an assortment of adhesive bandages, sterile gauze pads, tweezers, tape, scissors and disposable, nonporous gloves.
- (d) One first-aid kit must accompany children and facility person on excursions from the facility. The first aid kit taken on an excursion must contain a bottle of water in addition to the items specified in subsection (c).

#### **Authority**

The provisions of this § 3290.73 amended under Articles IX and X of the Public Welfare Code (62 P. S. § § 901—922 and 1001—1087).

#### **Source**

The provisions of this § 3290.73 amended May 23, 2008, effective September 22, 2008, 38 Pa.B. 2437. Immediately preceding text appears at serial page (315878).

#### **Cross References**

This section cited in 55 Pa. Code § 3290.176 (relating to transportation first-aid kit).

**§ 3290.73a. [Reserved].****Source**

The provisions of this § 3290.73a adopted December 9, 2005, effective December 11, 2005, 35 Pa.B. 6662; reserved May 23, 2008, effective September 22, 2008, 38 Pa.B. 2469. Immediately preceding text appears at serial page (315878).

**§ 3290.74. Building surface requirements.**

- (a) Floors, walls, ceilings and other surfaces, including the facility's outdoor play area, shall be kept clean, in good repair and free from visible hazards.
- (b) Hallways and stairways used by children shall be well-lighted.

**§ 3290.75. Paint.**

- (a) Peeled or damaged paint or damaged plaster is not permitted on indoor or outdoor surfaces in the child care space.
- (b) When indoor or outdoor surfaces are repaired or when new indoor or outdoor surfaces are painted, the paint may not contain more than .06% lead.
- (c) Children may not be present during removal of paint from the indoor or outdoor surfaces of a facility.
- (d) Abrasive removal methods which include dry sanding, electrical sanding, sandblasting, open flame burning or a removal process that permits the release of leaded particulate material into the environment are prohibited.
- (e) Child care may resume when the removal process is completed and when accompanying debris is removed.

**§ 3290.76. Firearms.**

- (a) Weapons and firearms shall be contained in a locked cabinet.
- (b) Ammunition shall be contained in a locked area separate from weapons and firearms.
- (c) The operator shall notify the parent when weapons, firearms or ammunition are present at the facility.

**§ 3290.77. Glass.**

A visual strip or other visual identification shall be placed on glass located in a traffic area or a child care space.

**§ 3290.78. Toilet area.**

(a) The facility shall have at least one indoor flushing toilet and one sink. Running water shall be available at the sink.

(b) Training chairs may be used, if emptied and sanitized after each use. A sanitizing solution of 1/4 cup bleach to 1 gallon of water may be used. A sanitizing solution shall be treated as a toxic. See § 3290.64 (relating to toxics).

(c) Toilets and training chairs shall be located in rooms separate from rooms used for cooking or eating.

## **FIRESAFETY**

**§ 3290.91. Exits.**

(a) Stairways, hallways, exits from rooms, exits from the facility and other means of egress serving as an exit shall be unobstructed.

(b) Protective gates and devices that can be opened easily are permitted, if they open easily and are not disapproved by building codes or local ordinance.

(c) If a door or doorway opens or exits directly into a stairwell and if there is no landing beyond the door or doorway, the door shall be restricted from opening or shall be removed and a secure barrier to prevent access to the stairwell shall be erected.

**§ 3290.92. Space heaters.**

(a) Fixed and portable space heaters, if allowed by local ordinance, may be used while children are in care, if the units are used in accordance with the manufacturer's operating instructions.

(b) Fixed and portable space heaters shall be insulated or equipped with protective guards to prevent contact.

(c) The manufacturer's instructions for use shall be kept in an accessible area in the facility.

**§ 3290.93. Fireplaces and woodburning and coalburning stoves.**

Fireplaces, fireplace inserts and woodburning or coalburning stoves, if allowed by local ordinance, shall be securely screened or equipped with protective guards while in use.

**§ 3290.94. Fire drills.**

- (a) Fire evacuation plans shall be developed and posted.
- (b) Evacuation plans shall provide for removal of persons from the facility in a single trip.
- (c) Fire evacuation drills shall be conducted at least four times a year.

**Cross References**

This section cited in 55 Pa. Code § 3290.24 (relating to emergency plan).

**EQUIPMENT****§ 3290.101. Type of play equipment.**

(a) Play equipment and materials appropriate to the developmental needs, individual interests and ages of the children shall be provided in sufficient amount and variety to preclude long waits for use.

(b) Play equipment and materials shall include items from each of the following six categories:

- (1) Materials for dramatic role playing.
- (2) Toys and materials for cognitive development.
- (3) Toys and materials for visual development.
- (4) Toys and materials for auditory development.
- (5) Toys to handle and manipulate and art materials for tactile development.
- (6) Toys and equipment for large muscle development.

(c) Play equipment shall facilitate the child's emotional, cognitive, communicative, perceptual-motor, physical and social development.

**§ 3290.102. Condition of play equipment.**

(a) Toys, play equipment and other indoor and outdoor equipment used by the children must be clean, in good repair and free from rough edges, sharp corners, pinch and crush points, splinters and exposed bolts.

(b) Toys soiled by secretion or excretion shall be cleaned with soap and water, rinsed and sanitized before being used by a child.

(c) Outdoor equipment that requires embedded mounting must be mounted over a loose-fill or unitary playground protective surface covering that meets the recommendations of the United States Consumer Product Safety Commission. The equipment must be anchored firmly and be in good repair.

(d) Slides that are over 4 feet high must have guards along both sides of the ladder.

(e) Pea gravel and other materials with a diameter of less than 1 inch may not be used in spaces where infants or toddlers receive care.

(f) Children's toys and equipment, including furniture and rest equipment, described as hazardous by the United States Consumer Product Safety Commission may not be used by children at the facility.

#### **Authority**

The provisions of this § 3290.102 amended under Articles IX and X of the Public Welfare Code (62 P. S. § § 901—922 and 1001—1087).

#### **Source**

The provisions of this § 3290.102 amended May 23, 2008, effective September 22, 2008, 38 Pa.B. 2437. Immediately preceding text appears at serial page (204670).

#### **Cross References**

This section cited in 55 Pa. Code § 3290.212 (relating to play surfaces); and 55 Pa. Code § 3290.102b (relating to playground protective surface covering—statement of policy).

#### **§ 3290.102a. [Reserved].**

#### **Source**

The provisions of this § 3290.102a adopted June 13, 1997, effective June 14, 1997, 27 Pa.B. 2827; reserved May 23, 2008, effective September 22, 2008, 38 Pa.B. 2469. Immediately preceding text appears at serial page (312285).

#### **§ 3290.102b. Playground protective surface covering—statement of policy.**

The requirement for playground protective surface covering in § 3290(c) (relating to condition of play equipment) means that the protective surfacing material must be safe and shock absorbing for a fall from the highest designated play surface on a piece of equipment as specified in the United States Consumer Public Safety Commission's *Outdoor Home Playground Safety Handbook*, Publication 324. This publication is available on the Internet at <http://www.cpsc.gov/cpsc/pub/pubs/324.pdf> or by calling the Consumer Public Safety Commission at (800) 638-2772.

### Source

The provisions of this § 3290.102b adopted May 8, 2009, effective May 9, 2009, 39 Pa.B. 2347.

### § 3290.103. Small toys and objects.

Toys and objects with a diameter of less than 1 inch, objects with removable parts that have a diameter of less than 1 inch, plastic bags and styrofoam objects may not be accessible to children who are still placing objects in their mouths.

### § 3290.104. High chairs.

High chairs shall have a wide base and a T-shaped safety strap.

### § 3290.105. Rest equipment.

(a) Individual, clean, age-appropriate rest equipment shall be provided for preschool, toddler and infant children as agreed between the parent and the operator. The rest equipment must be labeled with the child's name and used only by the named child while enrolled in the program.

(b) Bed linens may not be used alone as age-appropriate rest equipment.

(c) Stacked cribs may not be used.

(d) Crib and playpen slats may be no more than 2 3/8 inches apart.

(e) Seasonal, appropriate covering, such as sheets or blankets, shall be provided as agreed between the parent and the operator.

(f) At least 2 feet of space is required on three sides of a bed, cot, crib or other rest equipment while the equipment is in use.

(g) Linens, blankets and rest equipment shall be cleaned monthly, at a minimum. The operator shall arrange a cleaning schedule with the parent.

(h) Soiled bedding shall be cleaned before it is reused.

(i) The upper level of double-deck beds may not be used for children 8 years of age or younger.

(j) Toys, bumper pads or pillows may not be present in a crib while an infant is sleeping in the crib.

### Authority

The provisions of this § 3290.105 amended under Articles IX and X of the Public Welfare Code (62 P. S. § § 901—922 and 1001—1087).

### Source

The provisions of this § 3290.105 amended May 23, 2008, effective September 22, 2008, 38 Pa.B. 2437. Immediately preceding text appears at serial page (312285).

#### **§ 3290.106. Refrigerator.**

The facility shall have an operable, clean refrigerator used to store potentially hazardous food. The refrigerator shall be capable of maintaining food at 45° F or below. An operating thermometer shall be placed in the refrigerator.

#### **§ 3290.107. Utensils.**

- (a) Eating and drinking utensils shall be free from cracks and chips.
- (b) Disposable cups, plates and eating utensils may be used if discarded after each use.
- (c) Styrofoam cups and plates may not be used.

## PROGRAM

#### **§ 3290.111. Daily activities.**

- (a) A written plan of daily activities, including a time for free play shall be established.
- (b) The written plan shall be posted in a traffic area used by parents.
- (c) Daily activities shall promote the development of skills, social competence and self-esteem. Daily experiences shall recognize the child as an individual and give some choice of activities that respect personal privacy, life-style and cultural background.

#### **§ 3290.112. Infant and toddler stimulation.**

Infants and toddlers shall be provided stimulation by being held, rocked, talked to, played with and carried.

#### **§ 3290.113. Supervision of children.**

- (a) Children on the facility premises and on facility excursions off the premises shall be supervised by a staff person at all times. Outdoor play space used by the facility is considered part of the facility premises. The requirement for supervision on and off the facility premises includes compliance with the staff:child ratio requirements in §§ 3290.51 and 3290.52 (relating to maximum number of children; and ratio requirement).

(b) A facility person may not use any form of physical punishment including spanking a child.

(c) A facility person may not single out a child for ridicule, threaten harm to the child or the child's family and may not specifically aim to degrade the child or the child's family.

(d) A facility person may not use harsh, demeaning or abusive language in the presence of children.

(e) A facility person may not restrain a child by using bonds, ties or straps to restrict a child's movement or by enclosing the child in a confined space, closet or locked room. The prohibition against restraining a child does not apply to the use of adaptive equipment prescribed for a child with special needs.

#### **Authority**

The provisions of this § 3290.113 amended under Articles IX and X of the Public Welfare Code (62 P. S. § § 901—922 and 1001—1087).

#### **Source**

The provisions of this § 3290.113 amended May 23, 2008, effective September 22, 2008, 38 Pa.B. 2437. Immediately preceding text appears at serial page (312286).

#### **§ 3290.113a. [Reserved].**

#### **Source**

The provisions of this § 3290.113a adopted July 1, 2005, effective July 2, 2005, 35 Pa.B. 3665; reserved May 23, 2008, effective September 22, 2008, 38 Pa.B. 2469. Immediately preceding text appears at serial pages (312286) to (312287).

#### **§ 3290.114. Outdoor activity.**

Weather permitting, children shall be taken out of doors daily.

#### **§ 3290.115. Water activity.**

(a) *Swimming or wading.*

(1) An in-ground swimming pool accessible to children must be fenced with a locked gate.

(2) An aboveground swimming pool which is not in use must be made inaccessible to children in accordance with the swimming pool barrier guidelines of the United States Consumer Product Safety Commission.

- (3) An indoor swimming pool which is not in use must be made inaccessible to children.
- (4) A staff person shall be physically present with a child who is wading or swimming.
- (5) Swimming and wading ratios shall be maintained as follows:

|                        | Staff | Children |
|------------------------|-------|----------|
| Infant                 | 1     | 1        |
| Young or older toddler | 1     | 2        |
| Preschool              | 1     | 5        |
| Young school-age       | 1     | 6        |
| Older school-age       | 1     | 6        |

- (6) When children are swimming, supervision shall include at least one person who has completed lifeguard training as described in § 3290.31(c)(4)(ii) (relating to age and training).
  - (7) The person certified in lifeguard training may not be included in the staff:child ratio.
  - (8) A facility person who is counted in the staff:child ratio shall annually complete water safety instruction.
  - (9) A sanitizing solution shall be added to water in a wading pool. An acceptable sanitizing solution is 3/4 teaspoon of bleach added to 50 gallons of water. A sanitizing solution shall be handled as a toxic. See § 3290.64 (relating to toxics).
  - (10) A wading pool shall be emptied daily.
- (b) *Water play table.* A water play table or a container used for water play that contains unfiltered water shall be emptied daily.

**Authority**

The provisions of this § 3290.115 amended under Articles IX and X of the Public Welfare Code (62 P. S. § § 901—922 and 1001—1087).

**Source**

The provisions of this § 3290.115 amended May 23, 2008, effective September 22, 2008, 38 Pa.B. 2437. Immediately preceding text appears at serial pages (312287) and (262079).

**§ 3290.115a. [Reserved].**

### Source

The provisions of this § 3290.115a adopted July 26, 1996, effective July 27, 1996, 26 Pa.B. 3553; reserved May 23, 2008, effective September 22, 2008, 38 Pa.B. 2469. Immediately preceding text appears at serial page (262079).

### § 3290.116. Release of children.

(a) A child shall be released from care only to the child's parent or to an individual designated in writing by the enrolling parent. A child shall be released to either parent unless a court order on file at the facility states otherwise.

(b) In an emergency, a child may be released to an individual upon the oral designation of the parent, providing the identity of the person can be verified by the operator or a staff person.

(c) If a child is released upon the oral designation of the parent, the following information shall be logged in the child's record:

- (1) The name of the parent making the request.
- (2) The date and time of the request.
- (3) The name of the individual to whom the child is to be released.
- (4) The name of the staff person taking the call.
- (5) The name of the staff person releasing the child.

### Authority

The provisions of this § 3290.116 amended under Articles IX and X of the Public Welfare Code (62 P. S. § § 901—922 and 1001—1087).

### Source

The provisions of this § 3290.116 amended May 23, 2008, effective September 22, 2008, 38 Pa.B. 2437. Immediately preceding text appears at serial pages (262079) to (262080).

### Cross References

This section cited in 55 Pa. Code § 3290.123 (relating to agreement).

### § 3290.116a. [Reserved].

### Source

The provisions of this § 3290.116a adopted December 17, 1999, effective December 7, 1999, 29 Pa.B. 6341; reserved May 23, 2008, effective September 22, 2008, 38 Pa.B. 2469. Immediately preceding text appears at serial page (262080).

### **§ 3290.117. Pets.**

- (a) A pet or animal present at the facility, indoors or outdoors, shall be in good health and known to be friendly to children.
- (b) Contact with pets by the children is permitted only when a staff person is physically present.
- (c) A veterinarian's certificate of current rabies immunization is required for a cat or dog at the facility. The certificate shall be on file when the cat or dog is present.

### **§ 3290.118. Infant sleep position.**

Infants shall be placed in the sleeping position recommended by the American Academy of Pediatrics unless there is a medical reason an infant should not sleep in this position. The medical reason shall be documented in a statement signed by a physician, physician's assistant or CRNP and placed in the child's record at the facility.

#### **Authority**

The provisions of this § 3290.118 issued under Articles IX and X of the Public Welfare Code (62 P. S. § § 901—922 and 1001—1087).

#### **Source**

The provisions of this § 3290.118 adopted May 23, 2008, effective September 22, 2008, 38 Pa.B. 2437.

## **PROCEDURES FOR ADMISSION**

### **§ 3290.121. Application.**

- (a) The operator shall review with the parent, at the time of application, the facility's general daily schedule, hours in which care is provided, fees, responsibilities for meals, clothing, health policies, supervision policies, night care policies, dismissal policies, transportation and pick-up arrangements.
- (b) At the time of enrollment, a parent shall receive in writing the information described in subsection (a).

#### **Cross References**

This section cited in 55 Pa. Code § 3290.202 (relating to supervision).

**§ 3290.122. Admission interview.**

A child shall be interviewed or observed by the operator and when possible shall have the opportunity to visit the facility prior to being admitted for care. The child shall be told as much about the service being planned as the child can understand. If the parent indicates that the child has a special need, the operator shall discuss the condition with the parent, refer to § 3290.4 (relating to definitions), and comply with § § 3290.15, 3290.124 and 3290.131 (relating to service to a child with special needs; emergency contact information; and health information).

**Authority**

The provisions of this § 3290.122 amended under Articles IX and X of the Public Welfare Code (62 P. S. § § 901—922 and 1001—1087).

**Source**

The provisions of this § 3290.122 amended May 23, 2008, effective September 22, 2008, 38 Pa.B. 2437. Immediately preceding text appears at serial page (262080).

**§ 3290.123. Agreement.**

(a) An agreement signed by the operator and the parent must specify the following:

(1) The amount of fee to be charged per day or per week.

(2) The date on which the fee is to be paid.

(3) The services to be provided to the family and child, including the Department's approved form to provide information to the family about the child's growth and development in the context of the services being provided. The operator shall complete and update the form and provide a copy to the family in accordance with the updates regarding emergency contact information in § 3290.124(e) (relating to emergency contact information).

(4) The child's arrival and departure times.

(5) The individuals designated by the parent to whom the child may be released as specified in § 3290.116 (relating to release of children).

(6) The date of the child's admission.

(7) The services which are to be considered as extra.

(b) A parent shall receive the original agreement. The facility shall retain a copy of the agreement.

**Authority**

The provisions of this § 3290.123 amended under Articles IX and X of the Public Welfare Code (62 P. S. § § 901—922 and 1001—1087).

#### **Source**

The provisions of this § 3290.123 amended May 23, 2008, effective September 22, 2008, 38 Pa.B. 2437. Immediately preceding text appears at serial page (312159).

#### **§ 3290.124. Emergency contact information.**

(a) Emergency contact information shall be present in a child care facility for each enrolled child. Emergency contact information must reference who shall be contacted in an emergency.

(b) Emergency contact information must include the following:

- (1) The name and birth date of the child.
- (2) The name, address and telephone number of the child's source of medical care.
- (3) The home and work addresses and home and work telephone numbers of the enrolling parent.
- (4) A written consent signed by a parent for emergency medical care.
- (5) Information on the child's special needs, as specified by the child's parent, physician, physician's assistant or CRNP, which is needed in an emergency situation.
- (6) Health insurance coverage and policy number for the child under a family policy or Medical Assistance (MA) benefits, if applicable.
- (7) The name, address and telephone number of the individual designated by the parent to whom the child may be released.

(c) When children leave the facility on walking and riding excursions, emergency contact information specific to each child on the excursion shall accompany a staff person on the excursion.

(d) A written plan shall be conspicuously posted which identifies the means of transporting a child to emergency care and the facility staffing provisions in the event of an emergency. The plan must accompany a staff person who leaves the facility on an excursion with children.

(e) Emergency contact information shall be updated in writing by the parent once in a 6-month period or as soon as there is a change in the information.

#### **Authority**

The provisions of this § 3290.124 amended under Articles IX and X of the Public Welfare Code (62 P. S. § § 901—922 and 1001—1087).

### Source

The provisions of this § 3290.124 amended May 23, 2008, effective September 22, 2008, 38 Pa.B. 2437. Immediately preceding text appears at serial page (312159).

### Cross References

This section cited in 55 Pa. Code § 3290.122 (relating to admission interview); and 55 Pa. Code § 3290.123 (relating to agreement).

## CHILD HEALTH

### § 3290.131. Health information.

(a) The operator shall require the parent of an enrolled child to provide an initial health report no later than 60 days following the first day of attendance at the facility.

(1) The initial health report for an infant must be dated no more than 3 months prior to the first day of attendance at the facility.

(2) The initial health report for a young toddler must be dated no more than 6 months prior to the first day of attendance at the facility.

(3) The initial health report for an older toddler or preschool child must be dated no more than 1 year prior to the first day of attendance at the facility.

(4) The initial health report for a school-age child must be dated in accordance with the requirements for medical examinations for school attendance in 28 Pa. Code § 23.2 (relating to medical examinations).

(b) The operator shall require the parent to provide an updated health report in accordance with the following schedules:

(1) At least every 6 months for an infant or young toddler.

(2) At least every 12 months for an older toddler or preschool child.

(c) A health report must be written and signed by a physician, physician's assistant or a CRNP. The signature must include the individual's professional title.

(d) The health report must include the following information:

(1) A review of the child's health history.

(2) A list of the child's allergies.

(3) A list of the child's current medication and the reason for the medication.

- (4) An assessment of an acute or chronic health problem or special needs and recommendations for treatment or services, including information regarding abnormal results of screening tests for vision, hearing or lead poisoning.
  - (5) A review of the child's immunized status according to recommendations of the ACIP.
  - (6) A statement of the child's medical information pertinent to diagnosis and treatment in case of emergency.
  - (7) A statement that the child is able to participate in child care and appears to be free from contagious or communicable disease.
  - (8) A statement that age-appropriate screenings recommended by the American Academy of Pediatrics were conducted since the time of the previous health report required by this section.
- (e) The facility may not accept or retain an infant 2 months of age or older, a toddler or a preschool child at the facility for more than 60 days following the first day of attendance at the facility unless the parent provides written verification from a physician, physician's assistant, CRNP, the Department of Health or a local health department of the dates (month, day and year) the child was administered immunizations in accordance with the recommendations of the ACIP.
- (1) The facility shall require the parent to provide updated written verification from a physician, CRNP, the Department of Health or a local health department of ongoing vaccines administered to an infant, toddler or preschool child in accordance with the schedule recommended by the ACIP.
  - (2) Exemption from immunization must be documented as follows:
    - (i) Exemption from immunization for religious belief or strong personal objection equated to a religious belief must be documented by a written, signed and dated statement from the child's parent or guardian. The statement shall be kept in the child's record.
    - (ii) Exemption from immunization for reasons of medical need must be documented by a written, signed and dated statement from the child's physician, physician's assistant or CRNP. The statement shall be kept in the child's record.
  - (3) The facility shall implement dismissal policies in accordance with the Department of Health regulation in 28 Pa. Code § 27.77 (relating to immunization requirements for children in child care group settings).
  - (4) The facility shall comply with the annual immunization reporting requirements in accordance with the Department of Health regulation in 28 Pa. Code § 27.77.

#### Source

The provisions of this § 3290.131 amended May 23, 2008, effective September 22, 2008, 38 Pa.B. 2437. Immediately preceding text appears at serial page (312160).

### Cross References

This section cited in 55 Pa. Code § 3041.46 (relating to immunization); and 55 Pa. Code § 3290.122 (relating to admission interview).

### § 3290.131a. [Reserved].

### Source

The provisions of this § 3290.131a adopted March 28, 1997, effective March 29, 1997, 27 Pa.B. 1579; reserved May 23, 2008, effective September 22, 2008, 38 Pa.B. 2469. Immediately preceding text appears at serial pages (312160) and (228721).

### § 3290.132. Emergency medical care.

(a) If emergency medical care is needed for a child, the parent shall be contacted as soon as practical in the best interest of the child. If the parent cannot be reached, the operator shall record in writing the reason emergency care was required and the attempts made to inform the parent.

(b) A staff person shall accompany the child to a source of emergency care and shall remain with the child until the parent or a person designated by the parent assumes responsibility for the child's care.

(c) An operator shall document the manner in which emergency treatment was sought and obtained. File documentation shall include information referenced at § 3290.17(d) (relating to reporting injury, death or fire).

### § 3290.133. Child medication and special diets.

The operator shall make reasonable accommodation in accordance with applicable Federal and State laws to facilitate administration of medication or a special diet that is prescribed by a physician, physician's assistant or CRNP as treatment related to the child's special needs. Facility persons are not required to administer medication or special diets which are requested or required by a parent, a physician, a physician's assistant or a CRNP but are not treatment related to the child's special needs. When medication or special diets are administered, the following requirements apply:

(1) A prescription or nonprescription medication may be accepted only in an original container. The medication must remain in the container in which it was received.

(2) A staff person shall administer a prescription medication only if written instructions are provided from the individual who prescribed the medicine. Instructions for administration contained on a prescription label are acceptable.

(3) The label of a medication container must identify the name of the medication and the name of the child for whom the medication is intended. Medication shall be administered to only the child whose name appears on the container.

(4) Medication shall be stored in a locked area of the facility or in an area that is out of the reach of children.

(5) Medication shall be stored in accordance with the manufacturer's, health professional's or pharmacist's instructions on the original label.

(6) A parent shall provide written consent for administration.

(7) An operator is responsible to establish and maintain a medication log if prescription or nonprescription medication is administered. A log must include the following minimum information:

- (i) The name of the medication.
- (ii) The name of the child receiving the medication.
- (iii) A requirement for refrigeration.
- (iv) The amount of medication administered.
- (v) The date of administration.
- (vi) The time of administration.
- (vii) The initials of the staff person who administered the medication.
- (viii) Special notes related to problems of administration.

(8) If a special diet is prescribed for a child and if the diet is administered to the child, written instructions and the parent's written consent shall be retained in the child's file.

#### **Authority**

The provisions of this § 3290.133 amended under Articles IX and X of the Public Welfare Code (62 P. S. § § 901—922 and 1001—1087).

#### **Source**

The provisions of this § 3290.133 amended May 23, 2008, effective September 22, 2008, 38 Pa.B. 2437. Immediately preceding text appears at serial pages (228721) to (228722).

#### **§ 3290.134. Child hygiene.**

(a) A staff person shall ensure that a child's hands are washed before meals, snacks, after toileting and after being diapered.

- (b) Cloth towels and washcloths shall be labeled with the child's name, used by only the named child and laundered weekly. The operator shall arrange a laundry schedule with the parent.
- (c) Paper towels may be used as towels and washcloths. Paper towels shall be discarded after each use.
- (d) If brushing teeth is a program activity, a child shall have a labeled toothbrush.
- (e) Toothbrushes shall be stored with the bristles up and exposed to circulating air.
- (f) Paper cups discarded after one use, or water fountains shall be used for between-meal drinking by children who are not bottle-fed.

### **§ 3290.135. Diapering requirements.**

- (a) When children are diapered, the facility shall use disposable diapers, a diaper service or arrange with the parent to provide a daily diaper supply.
  - (1) If nondisposable diapers are provided by a parent, a soiled diaper shall be placed in an individual, securely-tied plastic bag and returned to the parent at the end of the day.
  - (2) If nondisposable diapers from a diaper service are provided by a facility, a soiled diaper shall be placed in the container provided by the service or in a securely-tied plastic bag.
  - (3) If disposable diapers are provided by a facility or a parent, a soiled diaper shall be discarded by immediately placing the diaper into a plastic-lined, hands-free covered can.
  - (4) A soiled diaper that is not in a tied bag may not be placed in an unlined outdoor trash container.
- (b) Diaper changing surfaces shall be cleaned after each use by wiping the surface with a sanitizing solution or by changing a pad or other surface covering.
- (c) The diapering area may not be used for food preparation or food service.
- (d) Cloth and paper materials used as diapering aids shall be stored in a manner that prevents cross-contamination from a soiled diaper, contaminated hands or other changing materials.
- (e) A staff person shall check a child's diaper at least every 2 hours and whenever the child indicates discomfort or exhibits behavior that suggests a soiled diaper. A staff person shall change a child's diaper when the diaper is soiled.

#### **Authority**

The provisions of this § 3290.135 amended under Articles IX and X of the Public Welfare Code (62 P. S. § § 901—922 and 1001—1087).

#### **Source**

The provisions of this § 3290.135 amended May 23, 2008, effective September 22, 2008, 38 Pa.B. 2437. Immediately preceding text appears at serial pages (228722) to (228723).

### **§ 3290.136. Reporting diseases.**

(a) If an operator allows admission of an ill child, the operator shall receive instructions from the parent for care of the child to assure that the child's needs for rest, attention and administration of medication are met.

(b) The operator shall inform parents of enrolled children when there is a suspected outbreak of a communicable disease or an outbreak of an unusual illness that represents a public health emergency in the opinion of the Department of Health.

(c) If a child becomes ill at the facility, the operator shall notify the child's parent as soon as possible.

(d) A facility person who knows of a communicable disease for which 28 Pa. Code Chapter 27 (relating to communicable and noncommunicable diseases) requires reporting, or who knows of a group expression of an illness which may be of public concern, whether or not it is known to be of a communicable nature, shall report it promptly to the appropriate division of the Department of Health, as specified in 28 Pa. Code Chapter 27, or to a local department of health.

### **§ 3290.137. Children with symptoms of disease.**

An operator who observes an enrolled child with symptoms of a communicable disease or infection that can be transmitted directly or indirectly and may threaten the health of children in care shall exclude the child from attendance until receiving notification from a physician or CRNP that the child is no longer considered a threat to the health of others. The notification shall be retained in the child's file. Diseases and conditions which require exclusion are specified in 28 Pa. Code Chapter 27 (relating to communicable and noncommunicable diseases). The Department of Health will provide, upon request, a list of communicable diseases.

### **§ 3290.138. Discrimination based on illness.**

Before, during and after the admission process, an operator or facility person may not discriminate against serving a child who has an illness which is not transmitted by casual contact.

## **ADULT HEALTH**

### **§ 3290.151. Health assessment.**

(a) A facility person providing direct care who comes into contact with the children or who works with food preparation shall have a health assessment on file at the facility.

(1) The operator shall submit a health assessment to the Department prior to issuance of an initial or renewal certificate of registration.

(2) A health assessment is valid for 24 months following the date of signature, if the person does not contract a communicable disease or develop a medical problem.

(b) A health assessment shall be conducted and a report written and signed by a physician, physician's assistant or CRNP. The signature must include the individual's professional title.

(c) The health assessment must include the following:

(1) A physical examination.

(2) Tuberculosis screening by the Mantoux method at initial employment. Subsequent tuberculosis screening is not required unless directed by a physician, CRNP, the Department of Health or a local health department.

(i) If a person's medical record demonstrates a positive tuberculin skin test, that record shall be placed on file at the facility.

(ii) A record of a person with a positive tuberculin skin test must include the results of a chest x-ray and evaluation for chemoprophylaxis.

(iii) A person with a positive tuberculin skin test and a negative x-ray is not required to have further tuberculosis testing unless one of the following occurs:

(A) The person is exposed to an active case of tuberculosis.

(B) The person develops a productive cough which does not respond to medical treatment within 14 days.

(3) Examination for communicable diseases and the results of that examination.

(4) Information on medical problems which might threaten the health of the children or prohibit a staff person from providing adequate care to children.

(5) The physician's or CRNP's assessment of the person's suitability to provide child care.

### **§ 3290.151a. Tuberculosis testing—statement of policy.**

The Department will accept an interferongamma release assay blood test instead of the Mantoux skin test for an adult health assessment.

#### **Source**

The provisions of this § 3290.151a adopted February 3, 2012, effective immediately, 42 Pa.B. 675.

**§ 3290.152. Adult hygiene.**

A facility person shall wash his hands before meals and snacks, after toileting and after diapering a child.

**§ 3290.153. Facility persons with symptoms of disease.**

A facility person with symptoms of a communicable disease or infection that can be transmitted directly or indirectly and which may threaten the health of children in care shall be excluded from attendance until the facility operator receives notification from a physician or CRNP that the person is no longer considered a threat to the health of others. The notification shall be retained in the facility person's file. Exclusion from the facility is required for diseases and conditions specified in 28 Pa. Code Chapter 27 (relating to communicable and noncommunicable diseases). The Department of Health will provide, upon request, a list of communicable diseases.

**§ 3290.154. Facility persons with skin disorders.**

(a) A facility person with a discharging or infected wound, sore, lesion on hands, arms or an exposed portion of the body shall be excluded from child care and food preparation activities until a physician or CRNP gives written notice that the person may return to child care or food preparation. The notification shall be retained in the person's file.

(b) A facility person with a herpes infection may not be present with infants younger than 3 months of age.

**§ 3290.155. Discrimination based on illness.**

A facility person or an individual seeking employment or placement who has an illness that is not transmitted by casual contact shall be permitted the right to continued employment, placement, employment opportunity or placement opportunity to the extent of his ability to perform the stated job function.

## NUTRITION

**§ 3290.161. Food.**

(a) Food stored, prepared or served shall be clean, wholesome, free from spoilage, free from adulteration and safe for human consumption.

(b) Food that has been previously served to a person or returned from a table shall be discarded.

(c) Potentially hazardous food brought from the child's home or provided by the facility shall be refrigerated.

(d) Fresh fruits and vegetables that are not used on the day of purchase shall be refrigerated.

(e) The only canned foods permitted for children's consumption are those commercially preserved in airtight jars or cans.

(f) A facility shall provide a sufficient number of refrigerators to contain foods which require refrigeration.

### **§ 3290.162. Meals.**

(a) If a child receives care for 4 or more consecutive hours, nutritional, appropriately-timed meals and snacks shall be served.

(b) Meals and snacks may be provided by the parent, upon agreement between the parent and the operator.

(c) Food may not be withheld from children for purposes of discipline.

(d) Children may not be forced to eat food.

### **§ 3290.163. Food groups.**

(a) A lunch or dinner prepared at the facility for children of toddler age or older shall have at least one item from each of the following food groups:

(1) Dairy products—milk, milk products and cheese.

(2) Protein group—meat, fish, poultry, eggs, cheese, peanut butter, dried beans, peas and nuts.

(3) Fruits and vegetables—a wide variety of green, white, yellow, red vegetables and fruits.

(4) Grain group—whole grain and enriched products, such as breads, cereals, pastas, crackers and rice.

(b) Breakfast prepared at the facility for children of toddler age or older shall have at least one item from three of the four food groups listed in subsection (a).

### **§ 3290.164. Food servings.**

Food servings shall be portioned suitably for the size and age of the children in care. Additional food in reasonable amounts shall be made available to children upon the request of the parent or child.

**§ 3290.165. Menus.**

The operator shall discuss the general menu plan with the parent so that the daily nutritional needs of the child can be met.

**§ 3290.166. Meals for infants.**

Meals for infants shall be provided in accordance with the following requirements:

- (1) A written statement giving formula and feeding schedule shall be obtained from the parent.
- (2) New foods shall be introduced only after consultation with the child's parent.
- (3) Disposable nursers shall be used unless bottles are provided by the parent, or unless a dishwasher is used by the facility.
- (4) Disposable nursers and bottles shall be labeled with the child's name.
- (5) An infant 6 months of age or younger shall be held while being bottle fed.
- (6) Neither an infant nor a toddler is permitted to sleep with a bottle in his mouth.
- (7) Bottled formula may not be heated in a microwave oven.

**TRANSPORTATION****§ 3290.171. Consent.**

The operator shall obtain written consent from the parent for transportation by the facility staff.

**§ 3290.172. Age of driver.**

The operator of the vehicle shall be 18 years of age or older and shall have a valid operator's license.

**§ 3290.173. Safety restraints.**

- (a) A child 7 years of age or younger shall be transported in accordance with the requirements for parents and guardians as set forth in 75 Pa.C.S. § 4581 (relating to restraint systems).
- (b) Safety restraints installed in the vehicle at the time of manufacturing shall be used by occupants.

(c) Manufacturer's instructions for use of safety restraints shall be kept in the vehicle at all times.

#### **Authority**

The provisions of this § 3290.173 amended under Articles IX and X of the Public Welfare Code (62 P. S. § § 901—922 and 1001—1087).

#### **Source**

The provisions of this § 3290.173 amended May 23, 2008, effective September 22, 2008, 38 Pa.B. 2437. Immediately preceding text appears at serial pages (204682) to (204683).

### **§ 3290.174. Vehicles.**

(a) A vehicle shall be insured under 75 Pa.C.S. § § 1701—1799.7 (relating to the Motor Vehicle Financial Responsibility Law).

(b) The doors on a vehicle shall be locked whenever the vehicle is in motion.

(c) No more than three persons may occupy the front seat of an automobile.

(d) The back of pick-up trucks may not be used to transport children.

(e) The cargo area of a station wagon may not be used to transport children.

(f) In accordance with 67 Pa. Code Chapter 171 (relating to school buses and school vehicles), the facility may not transport a child in an 11-15 passenger van.

#### **Authority**

The provisions of this § 3290.174 amended under Articles IX and X of the Public Welfare Code (62 P. S. § § 901—922 and 1001—1087).

#### **Source**

The provisions of this § 3290.174 amended May 23, 2008, effective September 22, 2008, 38 Pa.B. 2437. Immediately preceding text appears at serial page (204683).

### **§ 3290.175. Supervision.**

Children may not be left unattended in a vehicle.

### **§ 3290.176. Transportation first-aid kit.**

A first-aid kit, including the contents specified in § 3290.73 (relating to first-aid kit) shall be in the vehicle when children are being transported. The kit may be the same kit described at § 3290.73.

## CHILD RECORDS

### § 3290.181. Individual records required.

- (a) An operator shall establish and maintain an individual record for each child enrolled in the facility.
- (b) Information in a child's record shall be kept current by the operator.
- (c) A parent is required to review and update the record for accuracy at least once in a 6-month period or as soon as there is a change in the information.
- (d) Following review, a parent shall attest to the record's accuracy by affixing a dated signature to the record.

### § 3290.182. Content of records.

A child's record must contain the following information:

- (1) Initial and subsequent health reports.
- (2) The dates of application, admission and withdrawal of the child.
- (3) Signed parental consent for emergency medical care for the child. Written consent is required prior to admission.
- (4) Signed parental consent for administration of medications or special dietary needs.
- (5) Signed parental consent for administration of minor first-aid procedures by facility staff. Written consent is required prior to admission.
- (6) Signed parental consent for transportation, walking excursions, swimming and wading.
- (7) Reports of accidents, injuries and illnesses involving a child while in care at the facility. The original report is given to the parent on the day of the incident. The second copy of the report is retained at the facility in an accident file. The third copy of the report is retained at the facility in the child's file.
- (8) A copy of the initial and subsequent written agreement between the parent and the operator. The parent shall receive the original agreement.

### § § 3290.201—3290.208. (Reserved).

### Authority

The provisions of this § 3290.182 amended under Articles IX and X of the Public Welfare Code (62 P. S. § § 901—922 and (1001—1087).

#### **Source**

The provisions of this § 3290.182 amended May 23, 2008, effective September 22, 2008, 38 Pa.B. 2437. Immediately preceding text appears at serial pages (204683) to (204684).

#### **§ 3290.183. Confidentiality of records.**

- (a) A child's record is confidential.
- (b) A facility person may not disclose information concerning a child or family, except in the course of inspections and investigations by agents of the Department.

#### **Cross References**

This section cited in 55 Pa. Code § 3290.184 (relating to release of information).

#### **§ 3290.184. Release of information.**

- (a) The parent shall have access to the child's complete child day care record.
- (b) Except as provided in § 3290.183 (relating to confidentiality of records), release or dissemination of information in a child's record may be made by the operator and only with written parental consent. When file material is released, the person who authorized the release shall record the following information in the child's file:
  - (1) The name and position of the individual to whom the information was released.
  - (2) The date the information was released.
  - (3) The portions of the record which were released.
  - (4) The purpose of the release.
  - (5) The signature of the person who authorized the release.

### **ADULT RECORDS**

#### **§ 3290.191. Individual records required.**

An individual record is required for each staff person.

#### **§ 3290.192. Content of records.**

A record shall include a copy of the following information:

- (1) The name, address and telephone number of the staff person.
- (2) A written report of initial and subsequent health assessments, including the results of initial and subsequent tuberculin skin tests, x-rays or other medical documentation necessary to confirm freedom from communicable tuberculosis.
- (3) A copy of requests for the criminal history record and child abuse registry clearance information, a copy of the disclosure statement and a copy of the completed clearance information required under the CPSL.
- (4) Records of training required by the Department.

**§ 3290.193. Confidentiality of records.**

A facility person may not disclose information concerning another facility person or adult providing a service at the facility except in the course of inspections and investigations by agents of the Department.

**§ § 3290.201—3290.208. [Reserved].**

**Source**

The provisions of these § § 3290.201—3290.208 reserved May 23, 2008, effective September 22, 2008, 38 Pa.B. 2437. Immediately preceding text appears at serial pages (204685) to (204686).

**SPECIAL EXCEPTIONS**

**§ 3290.211. Approval by the Department of Labor and Industry.**

(a) A facility registered by the Department as of April 4, 1992, will be permitted one full registration period (24 months) beyond the expiration of the current certificate of registration to comply with the requirements of the Department of Labor and Industry, or its delegate agency, as described at § 3290.14 (relating to firesafety approval).

(b) A facility registered by the Department between April 4, 1992, and April 4, 1994, is required to provide:

- (1) An operable smoke detector placed on each level of the facility used by day care children.
- (2) An operable smoke detector on each level of exit from the facility.

(3) A portable fire extinguisher located in the kitchen and in other working areas. A fire extinguisher shall be equipped with a pressure gauge and shall be suitable for a class B fire.

(c) Subsection (b) applies for a maximum of 24 months from the date the facility is registered by the Department. Following expiration of the 24-month period, a facility shall comply with the requirements of the Department of Labor and Industry, or its delegate agency, as described at § 3290.14.

### **§ 3290.212. Play surfaces.**

(a) A facility registered by the Department as of September 22, 2008, has until September 22, 2010, to comply with the protective surface requirement as described in § 3290.102(c) (relating to condition of play equipment).

(b) A facility registered by the Department as of September 22, 2008, which has a play surface or play surface not in compliance with § 3290.102(e) has until September 22, 2010, to comply with § 3290.102(e).

#### **Authority**

The provisions of this § 3290.212 amended under Articles IX and X of the Public Welfare Code (62 P. S. § § 901—922 and 1001—1087).

#### **Source**

The provisions of this § 3290.212 amended May 23, 2008, effective September 22, 2008, 38 Pa.B. 2437. Immediately preceding text appears at serial page (204687).

### **§ 3290.213. Age and training.**

The operator of a facility who is lawfully operating a family child day care home registered by the Department as of September 22, 2008, is permanently qualified as an operator of a family child day care home.

#### **Authority**

The provisions of this § 3290.213 adopted under Articles IX and X of the Public Welfare Code (62 P. S. § § 901—922 and 1001—1087).

#### **Source**

The provisions of this § 3290.213 adopted May 23, 2008, effective September 22, 2008, 38 Pa.B. 2437.

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